

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TRACY VANDERHOEF, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

CHINA AUTO LOGISTICS INC., et al.,

Defendants.

Miscellaneous Action No. 1:22-mc-15

(Related to Civil Action No. 2:18-cv-  
10174-CCC-ESK, D.N.J.)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that Lead Plaintiffs Zhengyu He, Harold Brooks Moss, and Andrew Pagliara (“Plaintiffs”) will move this Court, at the United States District Court for the Southern District of New York, Part I, 500 Pearl Street, New York, New York 10007, at such time as the Court designates, for an Order pursuant to Rules 37 and 45 of the Federal Rules of Civil Procedure to compel non-party Marcum Bernstein & Pinchuk LLP (“Marcum BP”) to comply with the subpoena for documents served by Plaintiffs in the underlying civil action (No. 2:18-cv-10174-CCC-ESK, D.N.J.), and for such other and further relief as the Court may deem just and proper.

In support of this motion, Plaintiffs submit the accompanying Memorandum of Law, the Declaration of Joshua Baker with exhibits thereto, and all further filings and proceedings had in this action.

Counsel for Plaintiffs conferred with counsel for Marcum BP in good faith, but after a sincere attempt to resolves differences, have been unable to reach an accord.

Dated: January 14, 2022

Respectfully submitted,

**THE ROSEN LAW FIRM, P.A.**

/s/ Joshua Baker

Joshua Baker (JB 8288)

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*Lead Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I, Joshua Baker, declare that on January 14, 2022, a copy of the foregoing document was served by email to counsel for Marcum Bernstein & Pinchuk LLP:

Steven R. Berger  
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1633 Broadway, 31<sup>st</sup> Floor  
New York, NY 10019  
sberger@vedderprice.com

Dated: January 14, 2022

/s/ Joshua Baker